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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 HERMAN L. BARTON, JR.,

11 Plaintiff,

12 v.

13 4 QUEENS HOTEL AND CASINO,

14 Defendant.
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Case No. 2:11-CV-02096-KJD-CWH

ORDER

16 On August 6, 2012, the magistrate judge granted (#2) Plaintiff's application for leave to
17 proceed *in forma pauperis*, but dismissed Plaintiff's complaint for failure to state a claim upon which
18 relief may be granted. Particularly, the magistrate noted that Plaintiff's complaint failed to state any
19 facts from which a finder of fact could conclude that Plaintiff had been assaulted by Defendant's
20 agents. The complaint merely contained a legal conclusion. However, the magistrate judge granted
21 Plaintiff leave to amend his complaint and ordered Plaintiff to file the amended complaint no later
22 than September 5, 2012.

23 Though the time for doing so has passed, Plaintiff has failed to file an amended complaint.
24 Having conducted a *de novo* review of Plaintiff's complaint, the Court finds that Plaintiff has failed
25 to state a claim upon which relief may be granted. Accordingly, the Court dismisses Plaintiff's
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1 complaint for failure to state a claim and failure to file an amended complaint as ordered by the Court.

2 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Complaint (#3) is **DISMISSED**
3 **without prejudice.**

4 DATED this 17th day of September 2012.

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8 Kent J. Dawson
9 United States District Judge
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